

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

HENRY LALO CORREA,  
Plaintiff,  
v.  
CONNIE GIPSON, et al.,  
Defendants.

Case No. 1:13-cv-00598-AWI-SAB PC  
ORDER ADOPTING FINDINGS AND  
RECOMMENDATION, DISMISSING  
ACTION FOR FAILURE TO STATE A  
COGNIZABLE CLAIM FOR RELIEF, AND  
ENTERING JUDGMENT AGAINST  
PLAINTIFF  
(ECF No. 14)

Plaintiff Henry Lalo Correa is a state prisoner appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On March 7, 2014, the Magistrate Judge screened Plaintiff’s first amended complaint and issued a Findings and Recommendation to dismiss the action, with prejudice, for failure to state a cognizable claim for relief. The Findings and Recommendation were served on Plaintiff and contained notice that objections were to be filed within thirty (30) days. Plaintiff filed objections on March 28, 2014.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the Findings and Recommendation to be supported by the record and by proper analysis. In particular, the court finds that the Magistrate Judge’s Findings and Recommendations correctly state that, in the context of what Plaintiff admits was an effort by correctional officers to break

1 up an inmate brawl, Plaintiff has not and cannot allege that the Defendants' actions that injured  
2 Plaintiff were taken "maliciously and sadistically to cause harm." Wilkins v. Gaddy, 130 S.Ct.  
3 1175, 1178 (2010). Plaintiff has therefore failed to state a claim upon which relief can be  
4 granted.

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendation, filed March 7, 2014, is adopted in full;
2. This action is dismissed with prejudice for failure to state a cognizable claim;
3. The Clerk of Court shall enter judgment against Plaintiff; and
4. This dismissal is subject to the "three-strikes" provision set forth in 28 U.S.C. § 1915(g). Silva v. Di Vittorio, 658 F.3d 1090, 1098-1099 (9th Cir. 2011).

IT IS SO ORDERED.

Dated: January 16, 2015

  
\_\_\_\_\_  
SENIOR DISTRICT JUDGE